The 11 Decrees of Gregory IX and the 88 Rules of Boniface VIII

Excerpt

Eleven Canonical-Civil Rules of Gregory IX 1

- **CAP. I:** *Omnis res, per quascunque causas nascitur, per easdem dissolvitur.* **Literal Source:** St. John Chrysostom († 407). **CAP. I:** Every matter is dissolved by the same causes through which it was born.
- **CAP. II:** *Dubia in meliorem partem interpretari debent.* **Referential Source:** St. Bede († 735). **CAP. II:** Doubts should be interpreted in the most favorable way.
- **CAP. III:** *Propter scandalum evitandum veritas non est omittenda.* **Referential Source:** St. Bede. **CAP. III:** Truth must not be abandoned for the sake of avoiding scandal.
- **CAP. IV:** *Propter necessitatem illicitum efficitur licitum.* **Referential Source:** St. Bede. **CAP. IV:** By reason of necessity, that which is illicit is made licit.
- **CAP. V:** *Illicite factum, obligationem inducit.* **Referential Source:** Gregory VII, Pope (1075-1085). **CAP. V:** That which is done illicitly produces an obligation.
- **CAP. VI:** *Tormenta, iudiciis non praecedentibus, inferenda non sunt.* **Referential Source:** Gregory VII, Pope. **CAP. VI:** Sanctions [or torments] must not be applied without a prior trial.
- **CAP. VII:** *Sacrilegus est offendens rem vel personam ecclesiasticam.* **Referential Source:** St. Stephen I, Pope (254-257). **CAP. VII:** A sacrilegious person is one who profanes [sacred] things or violates ecclesiastical [consecrated] persons.
- **CAP. VIII:** *Qui facit aliter quam debet, facere non dicitur.* **Referential Source:** pseudo-Augustine († 430) or St. Eugene, Pope (654-657). **CAP. VIII:** He who acts otherwise than he ought is not said to act [legally].

- **CAP. IX:** *Committens unum peccatum, reus est omnium quoad vitam aeternam.* **Referential Source:** pseudo-Augustine (*De vera et falsa poenitentia*, c. 14). **CAP. IX:** He who commits one [mortal] sin is as one guilty of all regarding eternal salvation.
- **CAP. X:** *Ignorantia non excusat praelatum in peccatis subditorum.* **Referential Source:** Gregory I, Pope (590-604). **CAP. X:** Ignorance does not excuse the Prelate from responsibility for the sins of his subjects.
- **CAP. XI:** *Pro spiritualibus homagium non praestatur.* **Referential Source:** Lucius III, Pope (1181-1185). **CAP. XI:** For the service of spiritual things, no consideration [payment/homage] is permitted.

[1] GREGORY IX, *Decretales*, lib. V, tit. 41, *De Regulis Iuris*, cc. 1-11 (CrIC, II, 928).

Eighty-Eight Canonical-Civil Rules of Boniface VIII[2]

- **RULE I:** *Beneficium ecclesiasticum non potest licite sine institutione canonica obtineri.* **Referential Source:** Gregory IX; Boniface VIII. **RULE I:** An ecclesiastical benefit cannot be lawfully obtained without a canonical grant.
- **RULE II:** *Possessor malae fidei ullo tempore non praescribit.* **Referential Source:** Gregory IX. **RULE II:** For a possessor in bad faith, time does not prescribe [no statute of limitations applies].
- **RULE III:** *Sine possessione praescriptio non procedit.* **Referential Source:** Lucinius Rufinus; Dino Mugello. **RULE III:** Without possession, there is no [acquisitive] prescription or usucaption.
- **RULE IV:** *Peccatum non dimittitur nisi restituatur ablatum.* **Referential Source:** Bible. **RULE IV:** Sin is not forgiven

without the restitution of what was stolen. **Current Projection:** (Moral Theology).

- **RULE V:** *Peccati venia non datur nisi correcto.* **Referential Source:** Bible. **RULE V:** Forgiveness of sin is only given to the corrected [the repentant].
- **RULE VI:** *Nemo potest ad impossibile obligari.* **Literal Source:** Celsus; Azon. **RULE VI:** No one is obligated to do the impossible. A principle of natural law and jurisprudence.
- **RULE VII:** *Privilegium personale personam sequitur et extinguitur cum persona.* **Referential Source:** Modestinus; Azon. **RULE VII:** A personal privilege follows the person and dies with the person.
- **RULE VIII:** *Semel malus semper praesumitur esse malus.* **Referential Source:** Boniface VIII. **RULE VIII:** Once wicked, always presumed to be wicked.
- **RULE IX:** *Ratum quis habere non potest quod ipsius nomine non est gestum.* **Referential Source:** Unknown. **RULE IX:** No one can confirm that which was not done in their name.
- **RULE X:** *Ratihabitionem retrotrahi et mandato non est dubium comparari.* **Referential Source:** Ulpian. **RULE X:** Ratification is retroactive and is undoubtedly equated to a mandate.
- **RULE XI:** *Quum sunt partium iura obscura, reo favendum est.* **Referential Source:** Gaius. **RULE XI:** When the rights of the parties are obscure, the cause favors the defendant [over the plaintiff].
- **RULE XII:** *In iudiciis non est acceptio personarum habenda.* **Referential Source:** Bible; St. Thomas Aquinas. **RULE XII:** In judgments, there is no place for the respect of persons [partiality].
- **RULE XIII:** *Ignorantia facti non iuris excusat.* **Referential Source:** R. Peñafort. **RULE XIII:** Ignorance of fact excuses, not ignorance of the law.

- **RULE XIV:** *Quum quis in ius succedit alterius, iustam ignorantiae causam censetur habere.* **Referential Source:** *Siete Partidas*. **RULE XIV:** When someone succeeds another in a right, they are deemed to have a just cause of ignorance.
- **RULE XV:** *Odia restringi et favores convenit ampliari.* **Source:** Unknown. **RULE XV:** It is fitting to restrict odious things and to extend favorable ones.
- **RULE XVI:** *Decet concessum a principe beneficium esse mansurum.* **Source:** Unknown. **RULE XVI:** It is proper that a benefit granted by the prince [authority] should remain.
- **RULE XVII:** *Indultum a iure beneficium non est alicui auferendum.* **Source:** Unknown. **RULE XVII:** A benefit granted by law must not be taken away from its beneficiary.
- **RULE XVIII:** *Non firmatur tractu temporis quod de iure ab initio non subsistit.* **Literal Source:** Paulus. **RULE XVIII:** That which from the beginning lacked legal validity is not consolidated by the passage of time.
- **RULE XIX:** *Non est sine culpa qui rei, quae ad eum non pertinet, se immiscet.* **Referential Source:** Pomponius. **RULE XIX:** He is not without fault who meddles in a matter that does not concern him [or that he does not know].
- **RULE XX:** *Nullus pluribus uti defensionibus prohibetur.* **Source:** Unknown. **RULE XX:** No one is prohibited from using several defenders [defenses].
- **RULE XXI:** *Quod semel placuit amplius displicere non potest.* **Referential Source:** Azon. **RULE XXI:** That which once pleased [was consented to] cannot later be absolutely disapproved.
- **RULE XXII:** *Non debet aliquis alterius odio praegravari.* **Source:** Unknown. **RULE XXII:** Punishment should only be extended to its authors.

- **RULE XXIII:** *Sine culpa, nisi subdit causa, non sit aliquis puniendus.* **Referential Source:** Ulpian. **RULE XXIII:** No one should be punished where there was no crime [fault].
- **RULE XXIV:** *Quod quis mandato facit iudicis, dolo facere non videtur, quum habeat parere necesse.* **Source:** Unknown. **RULE XXIV:** He who acts by the mandate of a judge does not appear to act with malice, since he is required to obey.
- **RULE XXV:** *Mora sua cuilibet est nociva.* **Literal Source:** Paulus. **RULE XXV:** One's own delay [default] is harmful to oneself.
- **RULE XXVI:** *Ea, quae fiunt a iudice, si ad eius non spectant officium, viribus non subsistent.* **Referential Source:** Digest. **RULE XXVI:** The acts of a judge are not valid if they do not pertain to his office.
- **RULE XXVII:** *Scienti et consentienti non fit iniuria neque dolus.* **Referential Source:** Ulpian. **RULE XXVII:** To one who knows and consents, no injury or fraud is done.
- **RULE XXVIII:** *Quae a iure communi exorbitant, nequaquam ad consequentiam sunt trahenda.* **Source:** Unknown. **RULE XXVIII:** Consequences should never be drawn from that which deviates from common law.
- **RULE XXIX:** *Quod omnes tangit debet ab omnibus approbari.* **Literal Source:** Codex. **RULE XXIX:** What touches all [and each one equally] must be approved by all.
- **RULE XXX:** *In obscuris minimum est sequendum.* **Referential Source:** Ulpian; Modestinus. **RULE XXX:** In an obscure matter, the least [the lesser path] is to be followed.
- **RULE XXXI:** *Eum qui certus est certiorari ulterius non oportet.* **Source:** Unknown. **RULE XXXI:** He who is certain does not need to be further informed.
- **RULE XXXII:** *Non licet actori quod reo licitum non exsistit.* **Literal Source:** Ulpian; Referential: Gaius. **RULE XXXII:**

That which is not lawful for the defendant is not lawful for the plaintiff.

- **RULE XXXIII:** *Mutare consilium quis non potest in alterius detrimentum.* **Literal Source:** Papinian. **RULE XXXIII:** No one can change a will to the detriment of another. (Relative revocability of the mandate).
- **RULE XXXIV:** *Generi (sic) per speciem derogatur.* **Literal Source:** Papinian. **RULE XXXIV:** The genus is derogated by the species.
- **RULE XXXV:** *Plus semper in se continet quod est minus.* **Literal Source:** Paulus. **RULE XXXV:** The greater always contains the lesser.
- **RULE XXXVI:** *Pro possessore habetur qui dolo desiit possidere.* **Source:** Unknown. **RULE XXXVI:** He who possesses without malice is considered the possessor.
- **RULE XXXVII:** *Utile non debet per inutile vitiari.* **Literal Source:** Azon. **RULE XXXVII:** The useful should not be vitiated by the useless.
- **RULE XXXVIII:** *Ex eo non debet quis fructum consequi, quod nisus exstitit impugnare.* **Source:** Unknown. **RULE XXXVIII:** No one should obtain fruit from that which they seek to challenge.
- **RULE XXXIX:** *Quum quid prohibetur, prohibentur omnia quae sequuntur ex illo.* **Source:** Unknown. **RULE XXXIX:** When something is prohibited, everything that follows from it is also prohibited.
- **RULE XL:** *Pluralis locutio duorum numero est contenta.* **Literal Source:** Ulpian. **RULE XL:** Plural phrasing includes the number two.
- **RULE XLI:** *Imputari non debet ei, per quem non stat, si non faciat quod per eum fuerat faciendum.* **Source:** Unknown. **RULE XLI:** It should not be imputed to the non-intervener if he does not do what would have been done by him.

- **RULE XLII:** *Accesorium naturam sequi congruit principalis.* **Literal Source:** Gaius; Ulpian. **RULE XLII:** It is congruent that the accessory follows the nature of the principal.
- **RULE XLIII:** *Qui tacet, consentire videtur.* **Referential Source:** Ulpian. **RULE XLIII:** He who is silent appears to consent.
- **RULE XLIV:** *Is, qui tacet, non fatetur; sed nec utique negare videtur.* **Literal Source:** Paulus. **RULE XLIV:** He who is silent does not confess, but neither does he seem to deny.
- **RULE XLV:** *Inspicimus in obscuris quod est verisimilius, vel quod plerumque fieri consuevit.* **Literal Source:** Paulus. **RULE XLV:** In obscure cases, one investigates what is most probable or according to custom.
- **RULE XLVI:** *Is, qui in ius sucedit alterius, eo iure, quo illo, uti debebit.* **Referential Source:** Ulpian. **RULE XLVI:** He who succeeds to the right of another must use the same right as his predecessor.
- **RULE XLVII:** *Praesumitur ignorantia ubi scientia non probatur.* **Source:** Unknown. **RULE XLVII:** Ignorance is presumed where knowledge is not proven.
- **RULE XLVIII:** *Locupletari non debet aliquis cum alterius iniuria vel iactura.* **Referential Source:** Pomponius. **RULE XLVIII:** No one should be enriched to the injury or loss of another.
- **RULE XLIX:** *In poenis benignior est interpretatio facienda.* **Literal Source:** Paulus. **RULE XLIX:** In the imposition of penalties, the more benign interpretation should be applied.
- **RULE L:** *Actus legitimi condicionem non recipiunt neque diem.* **Literal Source:** Papinian. **RULE L:** Legitimate acts do not admit conditions or expiration dates.
- **RULE LI:** *Semel Deo dicatum non est ad usus humanos ulterius transferendum.* **Source:** Unknown. **RULE LI:** An object once dedicated to God should not thereafter be transferred to human [profane] uses.

- **RULE LII:** *Non praestat impedimentum quod de iure non sortitur effectum.* **Source:** Unknown. **RULE LII:** An impediment that produces no legal effect is of no consequence.
- **RULE LIII:** *Cui licet quod est plus, licet utique quod est minus.* **Literal Source:** Ulpian. **RULE LIII:** To whom the greater is permitted, the lesser is certainly permitted.
- **RULE LIV:** *Qui prior est tempore, potior est iure.* **Literal Source:** Codex. **RULE LIV:** He who is first in time is stronger in right.
- **RULE LV:** *Qui sentit onus, sentire debet et commodum.* **Referential Source:** Paulus; Codex. **RULE LV:** He who feels the burden should also feel the advantage [and vice versa].
- **RULE LVI:** *In re communi potior est condicio prohibentis.* **Referential Source:** Papinian; Pomponius. **RULE LVI:** In a common thing, the condition of the one who prohibits is stronger.
- **RULE LVII:** *Contra eum qui legem dicere potuit apertius, est interpretatio facienda.* **Referential Source:** Celsus. **RULE LVII:** Interpretation must be made against the one who could have expressed the content of the law more clearly.
- **RULE LVIII:** *Non est obligatorium contra bonos mores praestitum iuramentum.* **Referential Source:** Paulus. **RULE LVIII:** An oath taken against good morals is not binding.
- **RULE LIX:** *Dolo facit qui petit quod restituere oportet eundem.* **Literal Source:** Paulus. **RULE LIX:** He acts with malice who claims what he himself must restore.
- **RULE LX:** *Non est in mora qui potest exceptione legitima se tueri.* **Literal Source:** Paulus. **RULE LX:** He is not in default [delay] who can protect himself by way of a legitimate exception.
- **RULE LXI:** *Quod ob gratiam alicuius conceditur, non est in eius dispendium retorquendum.* **Source:** Unknown. **RULE**

LXI: What is granted by grace to someone cannot be turned to their detriment.

- **RULE LXII:** *Nullus ex consilio, dummodo fraudulentum non fuerit, obligatur.* **Literal Source:** Ulpian; Gaius. **RULE LXII:** No one is obligated by giving advice, provided it was not fraudulent.
- **RULE LXIII:** *Excepcionem obiiciens non videtur de intentione adversarii confiteri.* **Source:** Unknown. **RULE LXIII:** Objecting by exception does not imply a judgment of the adversary's intention.
- **RULE LXIV:** *Quae contra ius fiunt, debent utique pro infectis haberi.* **Literal Source:** Codex. **RULE LXIV:** Things done against the law must be considered as not done.
- **RULE LXV:** *In pari delicto vel causa potior est conditio possidentis.* **Literal Source:** Paulus; Ulpian. **RULE LXV:** In equal fault or cause, the condition of the possessor is preferred.
- **RULE LXVI:** *Quum non stat per eum, ad quem pertinet, quo minus condicio impleatur, haberi debet perinde ac si impleta fuisset.* **Source:** Unknown. **RULE LXVI:** When it is not due to the person responsible that a condition is not met, it should be considered as if it had been fulfilled.
- **RULE LXVII:** *Quod alicui suo non licet nomine, nec alieno licebit.* **Source:** Unknown. **RULE LXVII:** What is not lawful in one's own name is not lawful in another's name.
- **RULE LXVIII:** *Potest quis per alium quod potest facere per seipsum.* **Source:** Unknown. **RULE LXVIII:** One can do through another what one can do by oneself.
- **RULE LXIX:** *In malis promissis fidem non expedit observari.* **Source:** Unknown. **RULE LXIX:** Faithfulness should not be kept to wicked promises.
- **RULE LXX:** *In alternativis debitoris est electio, et sufficit alterum adimpleri.* **Source:** Unknown. **RULE LXX:** In alternative obligations, the choice belongs to the debtor, it being sufficient that one is fulfilled.

- **RULE LXXI:** *Qui ad agendum admittitur, est ad excipiendum multo magis admittendus.* **Literal Source:** Ulpian. **RULE LXXI:** He who is admitted to bring an action is with much more reason to be admitted to raise an exception.
- **RULE LXXII:** *Qui facit per alium, est perinde ac si faciat per seipsum.* **Literal Source:** Azon. **RULE LXXII:** He who acts through another is as if he acted by himself.
- **RULE LXXIII:** *Factum legitime retractari non debet, licet casus postea eveniat a quo non potuit inchoari.* **Source:** Unknown. **RULE LXXIII:** What is done legitimately should not be retracted, even if circumstances arise later under which it could not have been begun.
- **RULE LXXIV:** *Quod alicui gratiose conceditur, trahi non debet ab aliis in exemplum.* **Source:** Unknown. **RULE LXXIV:** Gracious concessions should not be invoked by others as examples.
- **RULE LXXV:** *Frustra sibi fidem quis postulat ab eo servari, cui fidem a se praestitam servare recusat.* **Referential Source:** Dino Mugello. **RULE LXXV:** In vain does someone demand commitment from another with whom he himself does not correspond.
- **RULE LXXVI:** *Delictum personae non debet in detrimentum ecclesiae redundare.* **Source:** Unknown. **RULE LXXVI:** A personal crime should not redound to the detriment of the Church.
- **RULE LXXVII:** *Rationi congruit ut succedat in onere, qui substituitur in honore.* **Referential Source:** Paulus; Azon. **RULE LXXVII:** It is reasonable that the same person who receives honors should bear the burdens.
- **RULE LXXVIII:** *In argumentum trahi nequeunt, quae propter necessitatem aliquando sunt concessa.* **Referential Source:** Gregory IX. **RULE LXXVIII:** That which was granted once due to necessity cannot be used as an argument.
- **RULE LXXIX:** *Nemo potest plus iuris transferire in alium, quam sibi componere dinoscatur.* **Literal Source:** Ulpian.

RULE LXXIX: No one can transfer more right to another than the transferor himself possesses.

- **RULE LXXX:** *In toto partem non est dubium contineri.* **Literal Source:** Gaius. **RULE LXXX:** It is indubitable that the whole contains its parts.
- **RULE LXXXI:** *In generali concessione non veniunt ea quae quis non esset verisimiliter in specie concessurus.* **Referential Source:** Papinian. **RULE LXXXI:** In a general concession, special concessions are likely not contemplated.
- **RULE LXXXII:** *Qui contra iura mercatur, bonam fidem praesumitur non habere.* **Referential Source:** Modestinus. **RULE LXXXII:** He who trades against the law is presumed not to have good faith.
- **RULE LXXXIII:** *Bona fides non patitur ut semel exactum iterum exigatur.* **Source:** Unknown. **RULE LXXXIII:** Good faith does not tolerate that what has already been paid be demanded again.
- **RULE LXXXIV:** *Quum quid una via prohibetur alicui, ad id alia non debet admiti.* **Source:** Unknown. **RULE LXXXIV:** When something is denied to someone by one path, it must not be admitted by another.
- **RULE LXXXV:** *Contractus ex conventione legem accipere dinoscuntur.* **Referential Source:** Javolenus. **RULE LXXXV:** Contracts have the force of law by their agreed-upon pact.
- **RULE LXXXVI:** *Damnum, quod quis sua culpa sentit, sibi debet, non aliis, imputare.* **Referential Source:** Pomponius. **RULE LXXXVI:** He who suffers damage by his own fault must impute it to himself, not to others.
- **RULE LXXXVII:** *Infamibus portae non pateant dignitatum.* **Referential Source:** Codex. **RULE LXXXVII:** The doors of dignities should not be open to the infamous.
- **RULE LXXXVIII:** *Certum est quod is commitit in legem, qui, legis verba complectens, contra legis nititur voluntatem.* **Referential Source:** Paulus. **RULE LXXXVIII (88):** It is

certain that he acts against the law who, while embracing the words of the law, strives against the will [intent] of the law.

[2] BONIFACE VIII, *Sextus Decretalium*, lib. V, tit. 12 at the end, *De Regulis Iuris*, Rules 1-88 (CrIC, II, 1122-1124).